

**Extended Employment Services Program Comment and Responses**  
**IDAPA 47.01.02, Idaho Division of Vocational Rehabilitation,**  
**Rules and Minimum Standards Governing Extended Employment Services**

Public Comment was solicited for IDAPA 47.01.02, EES Rules through public meetings across the state. The meeting schedule on the Division's public website, including the meeting notice and the draft proposed changes. Additionally, e-mails were sent to various interested stakeholders making them aware of the public comment process and meeting schedule. Public comment was submitted via e-mail to the Planning and Evaluation Manager and the Division Administrator. Comments provided by both organizations are similar in nature and therefore responses will collectively address both.

Public meetings were held across the state in Pocatello (5/20/16), Boise (5/27/16), and Coeur d'Alene (6/2/16). The public meeting attendance was minimal. One verbal comment was provided during the public meetings and was accepted by IDVR. Written comment was submitted by Glenn Roach, WITco and Lori Gentillon, Development Workshop, Inc. (DWI). Comments provided by both organizations are similar in nature and therefore responses will collectively address both organizations input.

**Public Comment: 010. Definitions 02. Client.**

The term "client" is used in the EES rules as opposed to the term "customer". Individuals should be referred to as customers for consistency.

**Extended Employment Services Program Response:** *The EES Program will accept the recommendation to use "customer" in the EES program.*

**Public Comment: 010. Definitions 02. Client.**

It is recommended the age requirement remain as it is in EES rule rather than deleting the reference to serving individuals 16 and older who are engaged in a school work program. With the pre-employment services now offered by IDVR, services are designed to be evaluative or to provide work experience with no intention of hiring or long term employment. However there may be individuals, under the age of 18, who elect to pursue employment in an occupation that offers advancement or meets their career goal and may choose to seek employment vs. training or work experience. These individuals may require job coaching supports and should be allowed to access these services if appropriate.

**Extended Employment Services Program Response:** *The EES Program will retain the age of 16 for individuals participating as part of a school work transition program.*

**Public Comment: 100. Certification of Providers. 01. Certification Required.**

It is recommended "annual" be inserted and read ...must apply for and receive annual certification from IDVR.

**Extended Employment Services Program Response:** *In light of public comment on this issue and to reduce redundancy and streamline the rule, the EES Program is modifying Section 100, Certification of Providers and collapsing the majority of the certification requirements into the Section 300, Provider Qualifications. Furthermore, the EES Program will change "certification of providers" to "approval of providers".*

**Public Comment: 100.03. Criteria. c.**

It is recommended, rather than a range of years, that it be set at five years of experience, within the past six years, of working with individuals with disabilities who are receiving Medicaid waived supported employment services and/or working with IDVR customers providing employment services.

**Extended Employment Services Program Response:** *EES Program agrees that rather than a range of years that a specific number of years should be identified, to eliminate subjectivity. The EES Program believes that three full years of experience demonstrates a level of consistency and reliability of service provision on the part of a new Provider. Additionally the following language will be added to this section "EES management will consider exceptions to this time period for areas of the state which need additional providers for adequate delivery of EES services."*

**Public Comment: 100.04. Grandfather Provision for Current Providers.**

It is recommended those providing services during the month of May 2011 rather than May 2006 be adopted. This provides a five year window for those providers who may have discontinued services and elect to reinstate services.

**Extended Employment Services Program Response:** *The EES Program has rewritten Section 100, Certification of Providers, and collapsed various elements into other sections, as previously mentioned above. This eliminates the need for a Grandfather provision which results in an elimination from rule.*

**Public Comment: 100.05. Duration.**

It is recommended that duration for certification be "annual" unless revoked by IDVR.

**Extended Employment Services Program Response:** *EES Program agrees with annual duration for Provider approval, however this section is unnecessary as the requirements are already detailed in Section 200. Extended Employment Services Provider Agreement.*

**Public Comment: 200. Provider Agreement. 03. Subject to Revision.**

Recommend that a notice to providers of 30 days prior to revision is to be added.

**Extended Employment Services Program Response:** *The EES Program will include the following language "EES program will provide EES Providers notification of any changes to the agreement, with as much notification as possible."*

**Public Comment: 300. Provider Qualifications. 01. Accreditation.**

It is recommended that CARF accreditation is clarified to include Community Employment Services CARF standards; in the event the provider offers work services, Organizational Employment Services CARF standards certification should be expected. CARF accredits a wide variety of services outside of employment services. It cannot be assumed CARF accreditation is in the areas of employment.

**Extended Employment Services Program Response:** *The EES Program will maintain the current CARF accreditation language. The EES Program may further evaluate this recommendation, specifically how making such a change would potentially impact existing EES Providers.*

**Public Comment: 02. All Staff Will. a. Criminal Background Check.**

Recommended that IDVR sets the standard as a criminal history check that is compliant with IDAPA 16.05.06.

**Extended Employment Services Program Response:** *The EES Program would like more time to adequately research and evaluate this issue before incorporating any changes to this section. The criminal background requirements in IDAPA 16.05.06 are extremely detailed and comprehensive.*

**Public Comment: 02.b. Age of provider staff**

Recommend this be re-stated as 18 years of age with six months of paid work experience in working with individuals with disabilities.

**Extended Employment Services Program Response:** *The EES Program believes that the current wording in 300.02.b is similar in intent as to what is recommend by public comment and is slightly more flexible for providers regarding recruitment of new provider staff and will therefore will leave the wording as it currently exists.*

**Public Comment: 02.d. viii Use of measureable objectives.**

Recommend this be restated as development and use of measureable objectives.

**Extended Employment Services Program Response:** *The EES Program accepts this recommendation and will incorporate “development and” in this section.*

**Public Comment: 400. Termination or Revocation of Provider Certification 03, Business Practices.**

Recommend that this be expanded to include engaged in business practices that are inconsistent with federal and state labor laws or suggest waste, fraud or unethical practices. This section should also reference the insurance requirements as now called out in the EES provider agreement.

**Extended Employment Services Program Response:** *Other subsections of Section 400. Termination or Revocation of Provider Status, encompass those reasons the EES Program would consider discontinuing authorizations for service provision for a provider and will therefore not make changes to this section. The insurance requirement is stated in the EES Provider Agreement.*

**Public Comments 04. Client Rights**

Recommend reference to the rights as listed on the EES Customer Rights and Responsibilities as well as add the same language as found in the IDVR rules 47.01.01 regarding access to Disabilities Rights Idaho.

**Extended Employment Services Program Response:** *This section of the rule, 400.04, Client Rights, speaks to the reason the EES Program would terminate a provider status.*

**Public Comment: 500. Extended Employment Services Clients – Referral, Eligibility and Case Closure 02. Eligibility.**

The applicant does not have eligibility and access to other public funding sources for long term support services for employment outcomes. This implies that EES is the “payor of last resort” and is contrary to CMS Medicaid Manual Chapter 18, Subchapter B that speaks to Medicaid as the payor of last resort and expectation that all third party sources be exhausted prior to accessing Medicaid funded services.

**Extended Employment Services Program Response:** *The EES Program does not believe this is in conflict with Medicaid intent and will leave the wording as it is.*

**Public Comment (Verbal): 02.i. Eligibility.** Change “mental retardation” to “intellectual disability”.

**Extended Employment Services Program Response:** *Accepted.*

**Public Comment: 02.e. Case Closure.**

Recommend this be renumbered as .03 rather than included in .02.

**Extended Employment Services Program Response:** *EES program accepts this recommendation and will renumber as recommended.*

**Public Comment: i. Unable to locate or contact.**

Recommend that this be further defined as contacting via telephone, email or letter and the individual be given 30 days to respond.

**Extended Employment Services Program Response:** *EES program will make reasonable attempts to contact the customer and/or guardian prior to closing the case. This is an internal process and therefore will not be included in rule.*

**Public Comment: ii Customer is utilizing Medicaid waived services for employment.** As stated previously, this implies EES is the payor of last resort and is not consistent with the guidance from Central Medicaid Services. Individuals who are accessing Medicaid waived supported employment services should be retained on the EES wait list and provide access to this service as EES funds become available to them.

**Extended Employment Services Program Response:** *The EES Program does not believe this is in conflict with Medicaid intent and will leave the wording as it is.*

**Public Comments iii. Disability too significant to benefit from services.**

This should be defined based on hours of service. A limit of 10 hours per week of support is referenced in rule. If someone requires more than 10 hours of EES are they considered too disabled to benefit from services? There are currently a number of EES clients that access 10 hours of service weekly that is then supplemented with Medicaid waived supported employment services. Recommendation is that be either removed from the list or further defined.

**Extended Employment Services Program Response:** *This closure reason will be used when there is adequate documentation collected by the EES Program which clearly demonstrates that the significance of the customer’s disability does not allow them to participate in work activities.*

**Public Comment: iv.** Not followed through with services.

Recommended that this be restated as non-compliance or unwillingness to participate in services.

**Extended Employment Services Program Response:** *EES program will add “non-compliance” to further clarify this closure reason.*

**Public Comment: vii.** No longer needing EES services. Recommend defining who has the authority to decide the individual no longer needs services. Is this a decision left to the individual who receives the service, the provider, advocate or employer? Recommend that this be a team decision and documentation provided that reflects the consensus of the group.

**Extended Employment Services Program Response:** *EES staff will make the decision to proceed with case closure based on a review of the documentation and information provided.*

**Public Comment: 801. Records 02. Storage.**

Recommend this be revised to be consistent with the language of the EES Provider Agreement that indicates files must be maintained for at least 5 years after the date of service.

**Extended Employment Services Program Response:** *EES program agrees with this comment and will make the change.*

**Additional Public Comment:**

The EES rules do not speak to a grievance procedure that an individual has access to in the event they feel they have not been treated fairly. This will be important in regards to issuing “budgets”, removal from wait lists or access to services and should be included in the rule.

**Extended Employment Services Program Response:** *The current grievance process is detailed in the EES Customer Rights and Responsibilities document.*